

No. 9(1)-81-6Lab/12734.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s. The Atlas Cycle Industries Ltd., Sonapat:—

BEFORE SHRI BANWARI LAL DALAL, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK

Reference No. 22 of 1978

between

SHRI BALWANT SINGH, WORKMAN AND THE MANAGEMENT OF M/S. THE ATLAS
CYCLE INDUSTRIES LTD., SONEPAT

Present :

Shri Ram Sarup Lakra for the workman.

Shri S. N. Jaggi for the management.

AWARD

This reference has been referred to this court by the Hon'ble Governor,—*vide* his order No. ID/RK/522-77/4315, dated 6th February, 1978 under section 10(i)(c) of the Industrial Disputes Act for adjudication of the dispute existing between Shri Balwant Singh, workman and the management of M/s. The Atlas Cycle Industries Ltd., Sonapat. The term of the reference was:—

Whether the dismissal of Shri Balwant Singh was justified and in order? If not, to what relief is he entitled?

On the receipt of the order of reference notices as usual were sent to the parties. The parties put in their appearance on 18th April, 1978, filed their respective pleadings and the only issue 'AS PER REFERENCE' was framed on the basis of the pleas of the parties. The management examined Shri S. K. Gulati, Industrial Relation Manager, B.T.M., Bhiwani and Shri P. N. Kaul, Labour Supervisor respondent as their witnesses and closed their case on 7th March, 1980. The workman examined Shri Baljit Singh, Postman, Shri P. J. Dass, Security Officer and himself as his witnesses and closed his case on 23rd February, 1981. I heard the representatives of the parties and have also seen the record and decide the issue as under—

The workman has alleged in his notice of demand which is dated 26th September, 1977 that his services were terminated by the respondent on 1st November, 1975 without serving him with any notice or chargesheet which was illegal. In his statement of claim he has pleaded that he was working with the respondent since December, 1963 and resigned on 5th June, 1969. The management called him again and he resumed his duty on 3rd July, 1969 and worked upto 1st November, 1975. The work of the workman was good and the management had no complaint against him during this period. On 1st November, 1975 the management levelled a false and baseless accusation of theft and terminated his services out of enmity with Shri P. J. Dass, Security Officer. He has further pleaded that he was forced to resign thereby terminating his services wrongly. The management denied the allegation of the workman and has pleaded that the workman was charge-sheeted for theft and placed under suspension pending enquiry,—*vide* letter No. FM/23/CS-75/638/2653, dated 10th November, 1975. On the refusal of the workman to accept the chargesheet-cum-suspension order the same was sent at his residential address but the same was received back unserved. Again the letter was sent by registered A.D. post at his Delhi and Sonapat addresses. The workman replied the chargesheet,—*vide* letter dated 29th March, 1976 addressed to the Labour-cum-Conciliation Officer, Sonapat with a copy to the management for treating it as reply to the chargesheet dated 10th November, 1975. The reply was found unsatisfactory. The letter intimating the date of enquiry dated 26th April, 1976 and requiring him to attend on 6th May, 1976 was received back with the remarks of the postal authority 'refused'. The workman was afforded another opportunity to participate in the enquiry on 31st May, 1976,—*vide* registered A.D. letter dated 26th May, 1976. This letter also was 'refused' to receive by the workman. The Enquiry Officer proceeded *ex parte* and the workman was found guilty of the charges. The management dismissed the workman accordingly,—*vide* letter No. F.M/23/CS-76/638/154, dated 19th February, 1977. The workman in his rejoinder has stated that the management taking advantage of the emergency atmosphere obtained the resignation of the workman by threatening him. He has denied that no witnesses were examined in his presence nor he was provided any opportunity of defence. The allegations levelled against the workman were false.

The management relied on documents Annexure 'A' to the written statement which is the chargesheet, Annexure 'B' which has been exhibited M-A which is the reply to the chargesheet and the other documents placed on file of the enquiry proceedings. The workman has tried to prove from the oral evidence of the witnesses WW-1 and WW-2 that the charges levelled against him were false and were out of enmity with the

Security Officer Shri P. J. Dass who withheld the payment of the bill for his motor cycle repair made by his son. He has also tried to prove that no enquiry was held and he was not intimated of the same if it was ever held through WW-1 the postman. The pleadings as well as the evidence lead by the workman are inconsistent throughout. In the notice of demand the workman has alleged that he was removed from service on 1st November, 1975 without serving with any notice or chargesheet while in his claim statement he states that a false and baseless charge of theft was levelled against him, while in his rejoinder he has pleaded that the management got his resignation by taking advantage of emergency forcibly. In his cross-examination the workman has given out that he wrote letter Exhibit M-A to the Conciliation Officer, Sonapat wherein the workman has stated in para 4 that as he resigned against the wishes of his superior they formed a concocted charge of theft against him and issued a chargesheet dated 10th November, 1975. In para 5 of the letter the workman has stated that he could not understand their motive behind this chargesheet when he had already left their services on 1st November, 1975. This letter is dated 29th March, 1976. The workman has admitted that exhibit M-B was written and signed by him. On the other hand the management had proved that the workman was chargesheeted for theft of gun metal and enquiry into the charges was held. The workman was found guilty and an order of dismissal was passed on 19th February, 1977. The workman was given reasonable opportunity of defence but he did not participate in the enquiry. From the admission of the workman and from letter Ex. M-A it is also proved that the workman received a charge sheet and the fact of resignation by him was also confirmed and the contention of the workman that the same was obtained forcibly under the prevailing atmosphere of emergency was falsified. The workman, in my opinion, did not participate in the enquiry so that he may escape from the consequences of dismissal on charges of theft involving misconduct which would have deprived him from other reliefs such as gratuity etc. and suffix himself by resigning the job. In view of the inconsistent and fluctuating stand taken by the workman the evidence lead by him is wholly against and beyond his pleadings and does not support his case and is also unreliable. I am, therefore, constrained to hold that the workman has been dismissed on a proved charge of theft rightly and justifiably. The workman is, therefore, not entitled to any relief. The reference is answered and returned accordingly.

The 17th October, 1981

BANWARI LAL DALAL,
Presiding Officer,
Labour Court, Haryana, Rohtak.

Endorsement No. 3730, dated 18th October, 1981

Forwarded (four copies, to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act.

BANWARI LAL DALAL,
Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 9(1)81-6Lab/12500.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M's Mahavir Metal Works Ltd., Mathura Road, Faridabad :—

BEFORE SHRI M.C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD

Reference No. 191 of 1978

between

SHRI CHANDER PAL, WORKMAN AND THE MANAGEMENT OF M/S. MAHAVIR METAL
WORKS LTD., MATHURA ROAD, FARIDABAD.

Present.—Shri R.N. Roy for the workman.
Shri S.L. Gupta for the management.

AWARD

By order No. FD/49-N-70 31004 dated 5th July, 1978, the Governor of Haryana referred the following dispute between the management of M's Mahavir Metal Works, Mathura Road, Faridabad and its workman Shri Chander Pal, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Chander Pal was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issues were framed on 14th February, 1979 :—

- (1) Whether the termination of services of the workman was justified and in order ?
- (2) Whether the workman is gainfully employed ? If so, to what effect?
- (3) If not, to what relief is he entitled ?

And the case was fixed for the evidence of the management, who examined Shri S.K. Khanna, Manager as MW-1 and Shri R.P. Joshi their Supervisor as MW-2. The workman examined himself as WW-1 and Shri R.N. Roy, President, Mercantile Employees Association as WW-2 and closed his case. Arguments were heard. I now give my finding issueswise :—

Issue No. 2.—The management did not lead any evidence on this issue, hence this issue is decided against the management.

Issue No. 1.—MW-1 stated that he knew the concerned workman. He joined service in 1977 as helper. His application form was Ex. M-1 and appointment letter Ex. M-2. He was kept on probation for six months. Signature of the workman appear at point A of Ex. M-2. The work of the workman was not found satisfactory during probation period but his probation period was extended to nine months. Extension letter was Ex. M-3. It was also signed by the workman. Because his work further deteriorated, therefore, his services were terminated, *vide* Ex. M-4. It was also signed by the workman at point A. Demand notice was received, *vide* Ex. M-5. The management submitted comments Ex. M-7 and conciliation report was Ex. M-8. In cross-examination he stated that no charge-sheet was given to the workman. There was no written complaint of his superior. He admitted that he was not assigned fixed duty because helpers were not assigned a fixed job. He further replied that most of the period his Supervisor was Shri Rajinder Parshad. MW-2 stated that the workman worked for about 2—2½ months under him. His work was not satisfactory because he used to sit idle and had no inclination for work. He was asked 2-3 times to take interest into work but he used to go for bath-room or for call of nature to idle away his time. In cross-examination he stated that there were 17-18 workers under him. Most of the helpers were not assigned fixed job although some of them had been assigned a job. He further stated that he had asked the workman verbally and not in writing to show interest in work. He further stated that all the workmen under him used to go to bath-room by taking permission but the concerned workman used to go without asking and had to be brought from there.

WW-1 stated that he had made a complaint Ex. W-1. He was a helper. He had no fixed duty. He used to work in workshop. He admitted his signatures on Ex. M-1, M-3 and M-4. In cross-examination he admitted his signature on Ex. M-2.

I have gone through Ex. M-1 and find that the workman was appointed as a probationer at Rs. 7.10 per day. Probation period was further extended. *vide* Ex. M-2. It is mentioned in Ex. M-3 that the work of the concerned workman was not satisfactory but to further review work it was being extended for three months. It is also mentioned that during this period his services could be terminated without any reason. This letter bears the signature of the workman. In Ex. M-4 termination letter it is written that the workman could not improve his work, therefore, his services were terminated. This is a case of simple termination of service of a probationer. The workman had not completed one year of service and I do not find any defect in the order of the management, therefore, I decide this issue in favour of the management.

Issue No. 3.—The workman is not entitled to any relief.

While answering the reference, I give my award that the termination of services of the workman was justified and in order. The workman is not entitled to any relief.

Dated, the 5th October, 1981.

M.C. BHARDWAJ,

Presiding Officer, Industrial Tribunal,
Haryana, Faridabad.

No. 930, dated the 7th October, 1981

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments. Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

M.C. BHARDWAJ,

Presiding Officer, Industrial Tribunal,
Haryana, Faridabad.